IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition NO. 225 (S/B) of 2006

1. Jeevan Chandra Joshi aged about 49 years, S/o Late Sri B.D. Joshi, Assistant Engineer, Uttaranchal Irrigation Department, Dehradun, District- Dehradun.
2. Gokaran Singh S/o Sri Dharam Singh, Assistatn Engineer, (Mechanical)Uttaranchal Irrigation Department, Dehradun, District- Dehradun.

..... Petitioners

Vs

1. Union of India through its Secretary, Ministry of Personnel, Public Grievances and Pension (Karmik and Training Department) Lok Nayak Bhawan-III Floor, Khan Market New Delhi.
2. State Advisory Committee (U.P and Uttaranchal) through its Chairman, New Delhi.
3. Chief Secretary, Government of Uttaranchal Dehradun, District- Dehradun
4. Chief Secretary, Government of U.P., Lucknow
5. State of U.P through Principal Secretary, Irrigation Department, Lucknow.
6. State of Uttaranchal through Principal Secretary (Irrigation) Dehradun, District- Dehradun.
7. Chief Engineer and Head of the Department, Irrigation Department, Uttaranchal Dehradun, District- Dehradun.

.....Respondents

Sri L.P. Naithani learned Senior Advocate assisted by Sri Rakesh Thapliyal Learned counsel for the petitioner.
Sri Arvind Vashistha learned Assistant Solicitor General for the respondent No.s1& 2.
Sri K.P. Upadhaya learned Standing counsel for the State of Uttaranchal.
Smt. Bina pandey learned standing counsel for the State of U.P.

Dated: - July 17, 2006

Coram: Hon'ble P.C. Verma,J
Hon'ble B.S. Verma,J

Both the parties have agreed that the petition may be disposed of finally at the admission stage itself, therefore we proceed to dispose of the same finally.

By means of this writ petition, the petitioners have prayed for writ of certiorari quashing the impugned communication letter dated 7-7-2006 (Annexure No. 12) Passed by the respondent No.2 as well as the office letter dated 10-7-2006 (Annexure No. 13) passed by the Government of U.P.

The petitioners are the Assistant Engineer (Civil) and Assistant Engineer (Mechanical) respectively in the Department of Irrigation and they were appointed as Assistant Engineers in their respective trades in the existing State of Uttar Pradesh. The Government of India in exercise of powers conferred under Section 73 (2) of U.P. Reorganization Act, 2000 vide its notification dated 11-5-2006 allocated the Uttaranchal cadre to the petitioners subject to the condition that the said final allocation will be treated to be effective from the appointed date i.e. 9.11.2000, which is contained in Annexure No.1 to the writ petition. The names of the petitioners in the said list figured at Serial No. 90 and 136 respectively. Thus, it is clear that the petitioners were finally allocated to the State of Uttaranchal.

By the impugned letter dated 7.7.2006 issued by the Chairman, State Advisory Committee U.P. and Uttaranchal, the Chief Secretary of Uttar Pradesh has been requested for some necessary guidance in the matter. By this impugned letter, the State Advisory Committee considered the representations of Sri R.R. Bhatt, Executive Engineer, D.P. Jugran, Executive Engineer, Umesh Kumar, Executive Engineer, A.K. Dinkar, Executive Engineer, V.K. Pant, Executive Engineer, D.C. Singh, Executive Engineer and Ajay Verma, Executive Engineer. The representations of these petitioners have been referred in paragraph-5 of the letter, which are to be disposed in compliance of the directions issued by this Court in Writ Petition No.123 of 2006 (S/B).

In respect of the disposal of the representations of these employees, by the impugned order, certain clarifications have been sought and it has been prayed that the officers relieved by the State of

Uttaranchal in exercise of power under Section 75 of the aforesaid Act may be allowed to join the State of U.P.

In pursuance of this communication letter dated 7.7.2006, the Joint Secretary of the State of U.P. wrote a letter dated 10.6.2006 addressed to the Principal Secretary, State of U.P. and Principal Secretary, State of Uttaranchal in which it has been mentioned that the persons who have been relieved in pursuance to the order dated 22.6.2006 may be allowed to join back in the State of Uttar Pradesh.

This letter is an inter-departmental letter for settlement of certain situations and the reasons have been given in paragraph 5 of the letter dated 7-7-2006. This letter dated 7.7.2006 cannot override the notification dated 11.5.2006 issued by the Government of India under Section 73 (2) of the U.P. Reorganization Act. It has not been denied that the petitioner have represented from state of U.P. for their allocation to the State of Uttaranchal and on that they were not allowed to join the State of Uttaranchal in view of the Annexure Nos. 16 and 17 to the writ petition.

As we have held above that this letter cannot override the notification dated 11.5.2006, therefore, we direct the Respondent No.6- Principal Secretary State of Uttaranchal, Irrigation Department to allow the petitioners to join in the State of Uttaranchal and to pay them the salary from the date of their respective joining.

In view of the above, the writ petition is allowed. No order as to costs.

(B.S. Verma, J.) **(P.C. Verma, J.)**

Rajeev Dang